

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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DR. SHIVA AYYADURAI,	)	
Plaintiff,	)	
	)	
	)	
v.	)	C.A. No. 1:18-cv-11929-RGS
	)	
	)	
THE UNIVERSITY OF MASSACHUSETTS,	)	
MARTY MEEHAN, DAVID CASH,	)	
Defendants.	)	

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**PLAINTIFF’S MOTION TO TAKE JUDICIAL NOTICE**

Plaintiff Dr. Shiva Ayyadurai, by and through counsel, requests that this Court take judicial notice, pursuant to FED. R. EVID. 201,<sup>1</sup> of the fact that University is licensee to New England Public Radio (“NEPR” or “WFCR”), a co-host of the October 21, 2018 Debate. Defs.’ Ex. 1-B. Public records, maintained by the Federal Communications Commission (“FCC”) an independent agency of the United States Government, and NEPR itself, demonstrate that The University is the licensee of for WFCR and that the University provides substantial support to WFCR by way of a studio on one of its campuses.

It is undisputed that NEPR, by way of its membership in the Consortium of Western Massachusetts Media Outlets, is a co-host of the October 21, 2018 Debate. *See* Defs.’ Ex. 1-B; Defs.’ Resp. at 10; *Sen. Elizabeth Warren, GOP challenger Geoff Diehl agree to Western Mass. debate Oct. 21 as part of 3-debate series*, Dan Glaun, MASSLIVE (Sept. 4, 2018), [https://www.masslive.com/politics/index.ssf/2018/09/elizabeth\\_warren\\_agrees\\_to\\_wes.html](https://www.masslive.com/politics/index.ssf/2018/09/elizabeth_warren_agrees_to_wes.html) (last accessed Oct. 1, 2018) (“Members of the consortium include . . . New England Public Radio . . .

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<sup>1</sup> This Court may take judicial notice of these facts at any time. Fed. R. Evid. 201(d).

[and] the University of Massachusetts Amherst. . . ); *Gov. Charlie Baker's campaign decision to decline Western Massachusetts debate called 'disgrace'*, Gintautas Dumcius, MASSLIVE (Sept. 20, 2018), [https://www.masslive.com/politics/index.ssf/2018/09/lack\\_of\\_western\\_mass\\_debate\\_in.html](https://www.masslive.com/politics/index.ssf/2018/09/lack_of_western_mass_debate_in.html) (last accessed Oct. 1, 2018)(stating that the Consortium of Western Massachusetts Media Outlets also planned to host at least one gubernatorial debate, and describing the Consortium as including both the University and New England Public Radio).

Upon further investigation, it has come to Plaintiff's attention that NEPR and the University enjoy a much closer relationship than previously believed. Not only does NEPR broadcast from a studio on one of the University's campuses, *Contact & Directions*, NEW ENGLAND PUBLIC RADIO, <http://www.nepr.net/contact-directions#stream/0> (last visited Oct. 1, 2018), but the University is listed as a licensee of WFCR, the callsign of NEPR,<sup>2</sup> with the FCC.<sup>3</sup> Further, under the "Public Information" tab, under the "About" dropdown menu on NEPR's webpage, there is a link to the website of the University's Board of Trustees and their meeting schedule. *See* Public Information, NEW ENGLAND PUBLIC RADIO, <http://www.nepr.net/public->

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<sup>2</sup> *See* About, NEW ENGLAND PUBLIC RADIO, <http://www.nepr.net/about> (last visited Oct. 1, 2018).

<sup>3</sup> *See* Station Search Results "WFCR," FED. COMMC'N COMM'N, [https://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/sta\\_list.pl?Facility\\_id=69304](https://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/sta_list.pl?Facility_id=69304) (last visited Oct. 1, 2018), attached hereto as **EXHIBIT JN-1**; Station Search Details "WFCR," FED. COMMC'N COMM'N, [https://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/sta\\_det.pl?Facility\\_id=69304](https://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/sta_det.pl?Facility_id=69304) (last visited Oct. 1, 2018), attached hereto as **EXHIBIT JN-2**; Application Search Details "WFCR," FED. COMMC'N COMM'N, [https://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/app\\_det.pl?Application\\_id=272171](https://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/app_det.pl?Application_id=272171) (last visited Oct. 1, 2018), attached hereto as **EXHIBIT JN-3**; FM Query Results, FED. COMMC'N COMM'N, <https://transition.fcc.gov/fcc-bin/fmq?call=WFCR&arn=&state=&city=&freq=0.0&fre2=107.9&serv=&vac=&facid=&asrn=&class=&list=0&ThisTab=Results+to+This+Page%2FTab&dist=&dlat2=&mlat2=&slat2=&NS=N&dlon2=&mlon2=&slon2=&EW=W&size=9> (last visited Oct. 1, 2018) attached hereto as **EXHIBIT JN-4**.

information (last accessed Oct. 1, 2018), attached hereto as **EXHIBIT JN-5**.

**CONCLUSION**

Accordingly, for the reasons stated above, Plaintiff respectfully requests this Court grant this motion and take judicial notice of the University's relationship as licensee to NEPR.

Respectfully submitted,

October 2, 2018  
Boston, MA

*/s/ Timothy Cornell*  
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**CERTIFICATE OF CONFERENCE**

Pursuant to Local Rule 7.1, I certify that I have conferred with counsel for the Defendants who informed me the Defendants will oppose the motion, to be addressed at argument on May 4, 2018.

/s/ Timothy Cornell

**CERTIFICATE OF SERVICE**

I certify that I will file the foregoing document with the Clerk of this Court using the CM/ECF system, which will instantaneously send a Notice of Electronic Filing to all counsel required to be served.

/s/ Timothy Cornell  
Timothy Cornell